licence to practice, it seems to me that these facts are most material, and show that the appellant was employed as an advocate and solicitor without being on the roll or temporarily licensed so to practise. It is pertinent to note that under regulation 16 an applicant is required, *inter alia*, to satisfy the controller that he is qualified to undertake the trade business or calling in respect of which the application is made. That he was given a work pass for the purpose indicated must imply that he applied for a pass for that purpose.

If he was in professional employ with Rayner & Co. he ought to have been in possession of a temporary licence since he was not on the roll. But if he had obtained a temporary licence in respect of that period he would have precluded himself from applying for admission to the roll because under section 4(3) of the Ordinance, any period during which a person resides in Sabah for the purpose of practising pursuant to a temporary licence under section 10(b) does not count towards the required period of six months under section 4(2)(c)(i).

If the appellant engaged in professional employment as an advocate and solicitor without a temporary licence and thus in breach of the Advocates Ordinance, can he be said to have discharged the burden upon him of satisfying the learned judge that he is in all respects a fit and proper person to be admitted to the roll of advocates? In my opinion the answer must clearly be in the negative.

At the outset I raised with counsel for the appellant the question whether there was any right of appeal against the exercise of the discretion vested in the Chief Justice or Senior Judge under section 6 of the Ordinance. I raised this point because the right of appeal is the creature of statute, and the statute, having in section 14(1) expressly provided for appeals and having omitted to provide for an appeal in the instant case, it seemed to be doubtful whether any such right to appeal exists. I doubt whether the somewhat obscure provisions of subsection (2) of the section give any such right. It is possible, however, that the appellant could bring his case under section 67 of the Courts of Judicature Act, 1964. Regrettably, counsel was unable to be of assistance to the court on this point but fortunately I do not find it necessary to decide it as, for the reasons which I have earlier indicated, I am of opinion that the appellant has failed to show that the learned judge was guilty of an erroneous exercise of the discretion vested in him by section 6 of the Ordinance and I would dismiss the appeal.

Gill J.: I have had the advantage of reading the judgment of the learned Chief Justice. I agree with it and have nothing of my own to add.

Chang Min Tat J.: I have had the advantage of reading the judgment of the Honourable the Chief Justice, Borneo, in the above appeal. I entirely agree with it and have nothing to add.

Appeal dismissed.

MOSES v. MOSES

[O.C.J. (Winslow J.) October 31, 1967]
[Singapore — Divorce No. 108 of 1967]

Family Law — Divorce — Whether neglect, failure or refusal to effect reconciliation a defence to divorce petition — "Unlikely to be reconciled" — Women's Charter, 1961, ss. 84(1)(e),(2)(g), and 86(2).

On the question whether, in a petition for divorce under section 84(1)(e) of the Women's Charter, the neglect, failure or refusal of the petitioner to have made efforts or refusal of the petitioner to effect a reconciliation with the respondent was (a) a reasonable answer or (b) a countercharge or (c) an allegation in defence to the petition,

Held: no such neglect, failure or refusal on the part of the petitioner to effect a reconciliation is a reasonable answer to a countercharge or an allegation in defence of a petition.

Per Curiam: "It seems to me, therefore, that any such neglect, failure or refusal on the part of a petitioner is not a ground which gives the court any discretion to say that it shall not be bound to pronounce a decree of divorce. One would have thought that if it had been the intention of the legislature to give the court a discretion in the matter, steps would have been taken to provide in this proviso that the court shall not be bound to pronounce a decree of divorce and may dismiss the petition, if in the opinion of the court, the petitioner has been guilty of any neglect, failure or refusal to make efforts to effect a reconciliation with the respondent."

"Where the marriage bond has become no more than a detested shackle after the parties have been separated for not less than seven years, it is in the public interest that the tie should be severed."

DIVORCE SUIT.

N. A. Christopher for the petitioner.

Freddy Yin Ee Kheng for the respondent.

Cur. Adv. Vult.

Winslow J.: The question of law which I have been asked to determine in these proceedings is:—

"Whether, in a petition for divorce under section 84(1)(e) of the Women's Charter, 1961 (No. 18 of 1961) the neglect, failure or refusal of the petitioner to have made efforts to effect a reconciliation with the respondent, is (1) a reasonable answer or (2) a countercharge or (3) an allegation in defence to the petition?"

The petitioner, who is the husband in this case, prays that his marriage may be dissolved under section 84(1)(e) of the Women's Charter on the ground that his wife "has lived separately from the petitioner for a period of not less than seven years immediately preceding the presentation of the petition and is unlikely to be reconciled with him".

It should be observed that under the Women's Charter a wife may also present a petition for divorce to the court praying that her marriage may be dissolved on a similar ground, *viz.*, that her husband "has lived separately from the petitioner for a period of not less than seven years immediately preceding the presentation of the petition and is unlikely to be reconciled with her." This ground is contained in section 84(2)(g) of the Charter.

These are new grounds which came into force on 2nd June, 1967 as a result of an amendment made by the Women's Charter (Amendment) Act, 1967 (No. 9 of 1967). According to the Explanatory Note to the Bill, which preceded the amendment, they purport to follow the provisions of section 21 of the New Zealand Matrimonial Proceedings Act, 1963. Section 21(o) of that Act provides that one of the grounds for divorce in New Zealand is "that the petitioner and respondent are living apart and are unlikely to be reconciled, and have been living apart for not less than seven years".

It should be noted that the proviso to section 86(2) of the Charter, as amended on 2nd June, 1967, does not contain any provision empowering the court to dismiss a petition if, in the opinion of the court, the petitioner has been guilty of neglect, failure or refusal to make efforts to effect a reconciliation with the respondent.

It seems to me, therefore, that any such neglect, failure or refusal on the part of a petitioner is not a ground which gives the court any discretion to say that it shall not be bound to pronounce a decree of divorce. One would have thought that if it had been the intention of the legislature to give the court a discretion in the matter, steps would have been taken to provide in this proviso that the court shall not be bound to pronounce a decree of divorce and may dismiss the petition, if in the opinion of the court, the petitioner has been guilty of any neglect, failure or refusal to make efforts to effect a reconciliation with the respondent.

In the circumstances it seems to me that no such neglect, failure or refusal on the part of the petitioner is a reasonable answer or a countercharge or an allegation in defence to a petition.

Counsel for the respondent contended that such neglect, failure or refusal on the part of the petitioner would make him a party at fault who had always resisted reconciliation over a period of not less than seven years and that therefore he or she could not contend that the respondent "is unlikely to be reconciled with him".

In my opinion, no question of fault on the part of the petitioner enters into the picture at all. A ground already exists whereby a husband or a wife may pray for dissolution of marriage on the ground that the wife or husband has deserted him or her without cause over a period of at least three years preceding the presentation of the petition. The party deserting the other spouse without cause for at least three years can therefore be successfully proceeded against by the innocent party and it seems to me that the latest amendments contained in section 84(1)(e) and section 84(2)(g) are designed to put an end to marriages where the parties have been separated for at least seven years and are unlikely to be reconciled. In short, the amendment appears to have been made on the basis that, where the marriage bond has become no more than a detested shackle after the parties have been separated for not less than seven years, it is in the public interest that the tie should be severed.

Further, giving the words their ordinary grammatical meaning, I see little or no difference between the following expressions:—

(i) "she is unlikely to be reconciled with him";

(ii) "he is unlikely to be reconciled with her"; and

(iii) "they are unlikely to be reconciled".

The answer to the question of law raised in these proceedings is therefore in the negative.

Question answered in the negative.

Solicitors: *N. A. Christopher; Freddy Yin Ee Kheng.*

RE CHI LIUNG & SON LTD.; TONG CHONG FAH v. TONG LEE HWA & ORS.

[O.C.J. (Gill J.) November 8, 1967]

[K.L. — Originating Petition No. 2 of 1967]

Company Law — Private Company — Application to court when affairs conducted in a manner oppressive to one or more members — Company's power exercised through directors according to articles — Power to remove and appoint managing director — General and special meetings — Companies Act, 1965, s. 181.

A company was formed by Madam Chi Liung and her son Tong Yew Seng and incorporated in 1938 under name and style of Chi Liung & Son, Ltd. with a share capital of $500,000 divided into 500 shares of $1,000 each. Mother and son took one share each and subscribed to its articles of association.

Later by resolution pursuant to its articles the authorized capital was increased; the position at the time of these proceedings was that the amount of paid up capital was $3,000,000 made up of 3,000 shares held in unequal numbers by eleven shareholders of the family of Madam Chi Liung and descendants through her son Tong Yew Seng and his wife, the shares of those dead were represented by their estates. It was a domestic and family concern.

Madam Chi Liung had appointed the petitioner managing director of the company and by a power of attorney had empowered him to exercise all the powers